



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

October 2, 2000

Ref: 8EPR-EP

Renée Dana, Team Leader
Bureau of Land Management
Rock Springs Field Office
280 Highway 191 North
Rock Springs, Wyoming 82901

RE: Jack Morrow Hills Coordinated Activity
Plan DEIS CEQ #000221

Dear Ms. Dana:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, et. seq., and Section 309 of the Clean Air Act, the Region 8 office of the Environmental Protection Agency (EPA) has reviewed the referenced Draft Environmental Impact Statement (DEIS) for the Jack Morrow Hills Coordinated Activity Plan (CAP).

As you are well aware, balancing multiple land use concerns is a difficult project. EPA comments are meant to assist the lead agency in preparing a document that assists in making informed decisions. If you would like clarification or further details regarding our comments please contact EPA to discuss any concerns that you may have.

EPA is rating the Jack Morrow Hills Coordinated Activity Plan DEIS as EC (2) (Environmental Concerns, Insufficient Information) due largely to 1) the document does not identify or present all environmental impacts in a clear format and 2) the lack of supporting information in the preferred alternative to open additional acreage to fluid mineral leasing in the core area. In addition, EPA has determined that objectives in the document are not consistent with the GRRMP concerning the decisions that were deferred to this activity plan. "EC" indicates that the EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts. The "2" means either the draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the



draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS. A full description of EPA's EIS rating system is enclosed.

Our specific comments are enclosed. We appreciate the opportunity to review the document and would like to work with BLM to address NEPA issues with the proposed project. EPA is particularly interested in working with BLMs proposal in the Preferred Alternative to engage an adaptive management approach to determine and evaluate future impacts to crucial big game habitat and other sensitive environments in the core area. EPA Gregory Oberley of my staff is available and can be reached at (303) 312-7043 to discuss the adaptive management process or to answer any other questions you may have.

Sincerely,

Original Signed by Cynthia G. Cody

Cynthia G. Cody
Chief, NEPA Unit
Ecosystems Protection Program

Enclosures

**COMMENTS ON THE DEIS FOR THE JACK MORROW HILLS COORDINATED
ACTIVITY PLAN**

Background

The Green River Resource Management Plan (GRRMP) recognized that the planning area identified in the Jack Morrow Hills Coordinated Activity Plan (CAP) possessed unique environmental, cultural, historical and aesthetic qualities. It also specifically identified an 80,410 acre parcel known referred to as the “core” area. The core area consisted of the Steamboat Mountain Area of Critical Environmental Concern (ACEC), portions of the Greater Sand Dunes ACEC, and overlapping areas of crucial big game habitats. In addition, the GRRMP included a 600,000 acre buffer area around the core area.

Because of the unique environmental characteristics of the area, the GRRMP specifically deferred fluid mineral leasing decisions in the core area only to the CAP. The GRRMP also required BLM to resolve any resource use conflicts within the planning area in the CAP.

Comments

EPAs comments are related to five general areas of concern in the Preferred Alternative.

- 1) Consistency with the decision deferrals identified in the Green River Resource Management Plan (GRRMP);
- 2) Proposed land use decisions made in the Jack Morrow Hills Coordinated Activity Plan (CAP) without supporting information available;
- 3) Delineating impacts to natural resources;
- 4) Using the adaptive management approach to integrating fluid minerals development while protecting crucial elk habitat and other sensitive environments in the planning area; and
- 5) Incorporating alternative identified during scoping.

Consistency With the Green River Resource Management Plan

The deferral language in the GRRMP recognizes the unique natural characteristics of the core area and related planning area. As a result, land use decisions, primarily related to fluid mineral leasing were deferred until additional information could be collected to determine “if and where fluid mineral leasing (i.e., oil, gas, geothermal, coal-bed methane) will be allowed in the core area, and the conditional requirements of any allowable fluid mineral leasing in core area, are deferred until completion of the activity plan.” (GRRMP ROD pg. ROD-4)

In the CAP (page 22) the Management Objective under the Fluid Minerals section of the Preferred Alternative for the Core Area proposes, “1) allow leasing, exploration, and development of fluid minerals (oil and gas, coal-bed methane, etc.) while protecting other resource values; 2) allow orderly and timely development of oil and gas reserves; and 3) manage objectives 1 and 2 to provide suitable habitat to maintain the continued existence of the Steamboat elk herd and other big game populations, and to protect sensitive resources (e.g., animals, plants, cultural, visual).

There are conflicting objectives between the GRRMP deferral language and the objective

listed under the Fluid Minerals section of The Preferred Alternative. In the GRRMP the decisions of “if” and “where” fluid mineral leasing is appropriate are key issues. In the CAP fluid mineral leasing is almost a foregone conclusion and included as an objective. The GRRMP identifies that the land use management objective is to protect sensitive resources in the core area by determining not only where fluid mineral leasing is appropriate but if it is appropriate at all. The objective in the CAP for the core area has ruled out an option that was specifically identified in the GRRMP.

Since the prior determination in the GRRMP directs BLM to redefine the objectives for fluid mineral leasing in the core area, the management objective for Fluid Minerals in the Preferred Alternative should be restated as follows, “Leasing will be available for fluid minerals in the core area only after information has determined impacts to the sustainability of the elk herd and other sensitive environments are minimal.” This approach is more in line with the requirements found in the GRRMP. In addition, a management action using a thoroughly spelled out adaptive management plan, discussed later in this document, can be used to comply with this objective. If an adaptive management approach like the one suggested later in our comments is not adopted, it seems that additional studies will need to be completed before the decision to open leasing in the core area can be made.

Proposed Land Use Decisions Without Supporting Information

The CAP Preferred Alternative proposes in the Management Action section for Fluid Minerals to open approximately 66,000 acres in the core area to fluid minerals development (page 22 CAP). Currently, this area is in a no lease area as directed by the GRRMP. Further the GRRMP requires that additional information be supplied in the CAP that will assure that the sustainability of elk heard and other sensitive environments will not be impaired before additional fluid mineral leasing is approved. Although, there are additional requirements such as no surface occupancy and/or seasonal restrictions placed on most of the acreage open to leasing, the CAP does not provide data that determines that these requirements or restrictions will meet the sustainability objective identified in the GRRMP.

In the absence of further information the decisions in the GRRMP should be honored in the core area. Primarily, fluid minerals should remain closed to leasing until either the elk study provides definitive information or and explicit adaptive management plan is incorporated into the CAP. Please refer to the comments on adaptive management for further details.

Delineating impacts to natural resources

Environmental effects or impacts as defined by CEQ Regulations include “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health , whether direct, indirect, or cumulative.” (CEQ 1508.8 Effects.) The evaluation of impacts in the Environmental Consequences Section of the CAP also evaluates impacts on land uses such as mineral development, livestock grazing, off road vehicle activities and recreation. Although, it is valid to look at the inter-relationships or conflicts between different land use activities, they are not

environmental impacts and should be discussed separately from the impacted environment. . As written, this is very confusing to the reader and the document should separate these two types of impacts.

The environmental impacts discussion also includes many good and relevant mitigation proposals. Unfortunately, it is very difficult to keep track of impacts that will be addressed through mitigation measures and impacts that will not be addressed. It is appropriate to separate out anticipated impacts that will be fully addressed through mitigation and impacts that will not be mitigated into different discussions under each natural resource discussion.

The document also makes it very difficult to determine the baseline condition used to evaluate the impacts to natural resources. For example under the Preferred Alternative's section concerning impacts to wildlife in the core area (page 328 CAP), the document states that "closing portions of the core area would reduce negative effects of fragmenting habitat and displacing animals, and provide protection for some of the most crucial habitat." This statement is misleading as it only discusses the beneficial impacts of closing 14,000 acres to fluid mineral leasing. It should also be noted in this section that the Preferred Alternative also intends to open approximately 66,000 acres in the core area to fluid mineral development which would have an enormous impact to the habitat in those leased areas.

Big game habitat is subject to many impacts from livestock grazing, fluid minerals management activities and to a lesser degree planned off road vehicle activity. The GRRMP pointed out that sustainability of important resources was a priority that should be addressed in the CAP. The wildlife impacts briefly discussed in the CAP are not quantified to the extent of being able to determine if the sustainability of big game crucial habitat and other species habitat can be maintained under the preferred alternative. Many times the document states that the impacts of the Preferred Alternative are less than Alternative A and greater than Alternative B. A comparison of alternatives is encouraged. However, impacts should also be generally quantified.

Although the document does list some impacts, it sometimes substitutes level of activity or output measurements as a substitute for impacts. Leasing an additional 50,000 acres is not considered an impact, increased density of roads is not an impact, increased human presence is also not an impact . Impacts or effects to the elk herd can be better described by determining that a loss of habitat causes the elk to migrate out of the area, or increase human presence during calving causes increased mortality.

The examples listed above generally apply in the other discussions of impacts for vegetation, soils, cultural, visual, watershed, special status plant species, wild horses and special management areas. The discussion concerning the baseline or minimum standard for wetlands and riparian areas proper functioning wetlands is much more clear. A good discussion of the activities that cause the majority of the impacts helps understand the cause and effect relationships. In addition, the discussion of wetland and riparian mitigation in the form of range management plans also is very descriptive of management actions that will benefit the resource by determining the acceptable baseline and using that to determine if measurable impacts are realized.

An additional area of concern is under estimated impacts related to potential coal bed methane development. Although past coal bed methane development has not been a large part of the fluid minerals development in this area, it should be anticipated. Current well densities in other basins where coal bed methane development has advanced are well beyond the proposed 85 wells anticipated in the preferred alternative. For approximately 66,000 acres in the core area open to fluid mineral development in the Preferred Alternative, the number of coal bed methane wells could be in the range of 800 wells. The impacts from this activity could completely invalidate anticipated effects of the preferred alternative in the core area. If fluid mineral leasing includes coal-bed methane development, then the impacts should evaluate a much more intense development scenario.

Evaluation of impacts from increased human presence in crucial habitat areas is also necessary. Induced impacts from the anticipated expansion of roads servicing fluid mineral development will be severe if not properly mitigated. If roads are to be left open for servicing developments it will be very difficult to keep recreational vehicles out of the area. The EIS should identify if there is currently a problem in the area with unauthorized trails or roads? If there is, how will induced impacts from this unplanned activity be limited? In addition, the transportation plan does not address the issue of closing unauthorized roads or eliminating and reclaiming roads that are causing severe impacts to wildlife, watersheds or vegetation.

Adaptive Management

The Preferred Alternative is built upon a concept described as “adaptive management.” Our review has identified several potential improvements in the adaptive process outlined in this document. In instances where the responsible agency can lay out thresholds and decision trees to guide future decisions, EPA supports the use of adaptive management. Without such thresholds and management options, adaptive management is not substantially different from traditional management. At its most effectiveness, adaptive management identifies future management actions, rather than management processes. True adaptive management can reduce the need for future NEPA actions, or at least reduce the scope of future NEPA decisions. We offer several specific suggestions with respect to adaptive management that should be included in the FEIS:

- 1) BLM should include threshold values that would be protective of wildlife impacts and other sensitive environments in the core area. These thresholds would represent the minimum desired conditions in the planning area. These thresholds would be the “trigger points” that would determine when additional management decisions (potentially including NEPA) are necessary. We believe that these thresholds can be set in this EIS based on existing information and the expertise of BLM biologists, water quality specialist in addition to other state and federal wildlife biologists, and that there is no reason to defer the disclosure of threshold values to some later date. Since the GRRMP main concern was for elk herd and sensitive environments in the core area, BLM should focus the adaptive management approach to address these issues. Expanding the geographic area addressed by this approach should be considered. Start with the core area as a minimum and work outward from the core area to include additional crucial elk habitat, Wilderness Study Areas and Area of Critical Environmental Concern as necessary.

2) Ideally, this management plan would not only identify the thresholds, but would also discuss and identify management alternatives and mitigation that would be implemented should a threshold be exceeded. Inclusion of thresholds and management alternatives in this EIS would reduce or eliminate the need for additional NEPA on this issue in the near future.

3) The FEIS should provide assurance that funding is available for the adaptive process including NEPA if needed.

4) The FEIS should include more detail on the proposed adaptive management process including the mechanisms for public disclosure of the analysis and the decisions. The roles of the BLM, other Agencies, independent science, and the public should be clearly stated. The FEIS should discuss the future decision points in this adaptive process that would require NEPA.

Incorporating Alternative Identified During Scoping

The scoping comments for the ¹JMHCAP overwhelmingly identified the sensitive nature of the area and requested that BLM use a protective or preservation approach to land management for the entire planning area. In addition, the majority of these comments appeared to have been written by people who live in the area or have visited portions of the planning area. Unfortunately the CAP does not respond to this issue raised from the scoping process. CEQ regulations require the lead agency to address all significant issues that are raised during the scoping process in the EIS (CEQ 1501.7 (2)). BLM must show that a preservation alternative as discussed in a majority of the scoping comments is not a “reasonable” alternative. According to CEQ regulations, agencies shall “Include reasonable alternatives not within the jurisdiction of the lead agency.” (CEQ 1502.14 (c)) Since the public is interested in seeing a preservation alternative presented in the EIS, it does not seem to be unreasonable to include that alternative in the EIS. If BLM has determined that it does not have the ability to choose that alternative due to conflicts with previous leases or with mineral leasing laws then the alternative can still be presented with that information.